IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Crl.MC.No. 2079 of 2007()

CRIME NO. 265/07 OF PERINTHALMANNA POLICE STATION

PETITIONER: PETITIONERS 3 & 4

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1. IMRAN, S/O.HAJIRUMMA, AGED 18 YEARS, BEEPATHUMMA MANZIL, SACHEERIPET P.O., MUNDUR VILLAGE, KARKALA TALUK, UDUPPI DISTRICT.

2. ABBAS BHARI, S/O.ABDUL KHADER, BEEPATHUMMA MANZIL, SACHEERIPET P.O., MUNDUR VILLAGE, KARKALA TALUK, UDUPPI DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: RESPONDENT

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2079 of 2007

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Dated this the 2nd day of July, 2007

O R D E R

The petitioners, who are accused 3 and 4, face allegations, inter alia, under Section 498A I.P.C. Another Bench of this Court granted an order under Section 438 Cr.P.C., but with the rider that the order was to remain for a period of one month, within which period the petitioners were directed to appear before the learned Magistrate and seek regular bail. They did appear before the learned Magistrate and seek regular bail. Regular bail was granted to them. Identical conditions as were imposed by this Court were imposed on the petitioners by the learned Magistrate. We are now concerned with Condition (a), which obliges the petitioners to report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays. The said condition was imposed by this Court as per order dt. 23.5.2007. About five weeks have now elapsed. The petitioners pray that the said condition may be deleted.

2. Technically the petitioners should approach the learned Magistrate and seek modification of the condition, as the conditions were imposed by the learned Magistrate at the time of grant of regular

bail and not by this Court, though of course, it is true that identical conditions are seen re-imposed by the learned Magistrate also.

3. The learned counsel for the petitioners prays that unnecessary trauma of the petitioners approaching the learned Magistrate may be avoided and the condition may be suitably modified by this Court. This Court has the jurisdictional competence to do the same under Section 439 (2) Cr.P.C. also, it is submitted.

4. The learned Prosecutor does not oppose the said prayer for modification. The learned Prosecutor only submits that such condition may be permitted to remain in force for some further period of time. I am satisfied that the request of the petitioners can be allowed.

5. This petition is accordingly allowed. It is directed that Condition (a) imposed on the petitioners as per order dt. 23.5.07, which is re-imposed by the learned Magistrate while granting regular bail, shall now remain in force only till 31.7.2007.

(R. BASANT)
Judge

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